

California Natural Resources Agency Tribal Stewardship Policy

Established: DATE

DRAFT

Vision and Purpose

The California Natural Resources Agency (“Agency”) and its departments, conservancies, and commissions (herein “departments”) are charged with stewarding California’s unique natural, cultural, and historic resources. To fulfill this responsibility, it is critical the Agency and its departments build meaningful partnerships with California Native American tribes.

As the original stewards of the lands and waters in California, tribes have exceptional expertise and experience managing our state’s environment and natural resources. Since time immemorial, California Native American tribes cared for their homelands and helped to maintain ecological balance and health. These traditional practices and knowledge are critical as we confront modern environmental challenges and can guide our Agency’s own stewardship of California’s environment.

Collaborating with California Native American tribes requires first we acknowledge State government’s historical treatment of California Native Americans. Over the last two centuries, the State government has ignored this tribal stewardship and perpetuated historical wrongs, including forced removal of tribal communities from ancestral lands and criminalization of traditional practices. These actions greatly harmed the health and wellbeing of tribal communities. Further, the State’s actions also abandoned beneficial practices that maintained the health of our lands and waters.

In recent years, the California state government has sought to establish a new era of tribal-state partnerships in the spirit of truth and healing. State leaders have acknowledged historic wrongs and many state agencies have worked to improve their own practices to enable effective, respectful collaboration with California Native American tribes. This progress includes strengthening tribal consultation practices, funding tribal ancestral land return, establishing tribal access agreements, and exploring models of collaborative tribal-state natural resources and land management relationships.

This Tribal Stewardship Policy helps our Agency and its departments institutionalize these practices and build lasting tribal partnerships in the implementation of each’s respective missions, regulations, policies, and programs. This policy does so by establishing the need and opportunity for tribal stewardship and providing standard practices for Agency to support tribal priorities. The associated Tribal Stewardship Toolkit builds the capacity of California Native American tribes, state agencies, and non-government entities to do this work together. The Toolkit takes form as a living website of recorded webinars, templates, case studies, and other information resources.

The Challenge

The lands, waters, and natural resources within the boundaries of what is now known as California, have been – and still are – stewarded by diverse California Native American tribes and tribal communities. Since time immemorial, California Native American tribes have developed and continue to practice deep place-based societies, laws, ceremonies, customs, management practices, and ways of life in the stewardship and care of lands and natural resources. Before colonization, California Native Americans spoke over 100 distinct languages, stewarded and thrived in the unique and biodiverse ecosystems, and represent an array of diverse governments, cultural practices, and ways of life. The strength of California Native American communities was due to this diversity and the dynamic trading routes and economies across the continent.

Tribal stewardship expertise, commonly referred to as Traditional Knowledge or Traditional Ecological Knowledge, blends the complexity of hunting and gathering knowledge, study of biology, and keen attention to environmental cues and microclimate variations with active cultural, ceremonial, and management practices to live in close relation to the lands and waters. This knowledge and expertise are uniquely held by each tribe and their cultural practitioners, recognizing the tremendous cultural diversity of California Native American tribes.

Tribal societies rely on this expertise for physical, cultural, religious, and economic survival. The land and species have co-evolved with tribes and the application and care of Traditional Ecological Knowledge. The disruption of this expertise and relationship to the land not only impacts tribal governments and tribal communities' way of life but also effects the health and wellbeing of ecosystems that rely on tribal stewardship. And in turn all Californian's and the economy which are built on functioning ecosystems and natural resources.

The State of California's actions during its first three years of statehood from 1850 to 1853 began a long history of historic wrongs. During this time:

- The State's first Governor, Peter Burnett, used his authority to advance a "war of extermination... between the races, until the Indian race becomes extinct," as illustrated in his annual message to the State Legislature in 1851.
- This Governor and State Legislature passed the 1850 Act for the Government and Protection of Indians, also known as the Indian Indenture Act, that was used to indenture California Indian children and outlaw cultural and environmental stewardship practices of setting fire to prairies.

- In mid-March 1852, the California Legislature voted to send resolutions to the U.S. Senate opposing the ratification of the 18 treaties negotiated between the federal government and California Native American tribes across the State. In these treaties, the United States promised to forever reserve and protect 7.5 million acres of land for the permanent homelands of California Native American tribes. In a secret session, the U.S. Senate following the recommendation of the California Legislature refused to ratify the 18 treaties, thus breaking the previously agreed to promises.

These actions have had devastating impacts still felt today. Rejection of the treaties left tribes without secure homelands or access to resources. State militias and vigilante campaigns to kill Native American people increased, advancing attempted extermination and genocide. While some reservations, rancherias, and trust lands were later formed under federal law for Native American tribes, the broken promise of 7.5 million acres of secure homelands was never remedied.

This stark history established a framework that, until recently, directed state agencies to resist tribal landownership, ignore tribal stewardship, undervalue Traditional Ecological Knowledge as a legitimate science, and to criminalize traditional practices.

The Opportunity

Today, it is clear that tribal stewardship and traditional ecological practices are vital to confronting a range of environmental challenges. Tribal knowledge and practices are shaping State government efforts to build our resilience to climate change-driven threats like catastrophic wildfire, recover culturally important species like salmon, increase access to outdoors for underserved communities, prepare our coast for sea level rise, restore the health of our landscapes, and so much more.

State agencies have an opportunity to learn from tribal leaders and communities, engage in respectful collaboration, and establish lasting tribal-state partnerships. Recent California Governors have ushered in a beginning of a new era of tribal-state partnership through executive orders and statewide policy. This Policy builds on this foundation, including:

- Governor Jerry Brown's Executive Order B-10-11 established the Governor Office's Tribal Advisor position and directed state agencies to communicate and consult with California Native American tribes to provide opportunities for meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities. (2011)

- Governor Gavin Newsom’s Executive Order N-15-19 apologizing to California Native American tribes for the role of the State of California in committing historical wrongs and establishing a Truth and Healing Commission. (2019)
- Governor Gavin Newsom’s Statement of Administrative Policy on Native American Lands directing all departments to identify opportunities for increased tribal access, co-management, and ancestral land return. A few departments who have already returned state owned lands including California Department of Fish and Wildlife, State Lands Commission, and the Coachella Valley Mountains Conservancy. (2020)
- Governor Gavin Newsom’s Executive Order N-82-20 directing the Agency to work with tribes in advancing the State’s nature-based solutions priorities, including advancing implementation of nature-based climate solutions and conserving 30% of lands and coastal waters by 2030, known as 30x30. (2020)

The California Legislature has passed significant legislation in furtherance of this new era of tribal-state partnership, including:

- California Government Code Section 11019.81, Assembly Bill 923 (Ramos 2022), encouraging “the State of California and its agencies to consult on a government-to-government basis with federally recognized tribes, and to consult with nonfederally recognized tribes and tribal organizations, as appropriate, in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have tribal implications.”
- California Civil Code Section 3333.8, Senate Bill 310 (Dodd 2024), authorizing the California Natural Resources Agency and local air districts to enter into agreements with federally recognized California Native American tribes for cultural burning in lieu of CAL FIRE and local air district permits.
- California Government Code Section 6502.3 and Section 11019.82, Assembly Bill 1284 (Ramos 2024), encouraging the California Natural Resources Agency and its departments to enter into meaningful co-management and co-governance agreements for the management of natural resources.
- California Government Code Sections 8899.90 - 8899.95, Assembly Bill 2022 (Ramos 2022), prohibiting the use of an offensive and derogatory term towards Native American women on places and features across California.
- California Public Resources Code Sections 71450 – 71452 adopting the goal to conserve 30% of California’s lands and coastal waters by 2030 and the ten

pathways to accomplish this goal, including “[s]upporting tribal engagement and leadership in implementing the 30x30 goal.”

- California Health and Safety Code Section 38561.5, Assembly Bill 1757 (Garcia 2022), requiring the State to develop nature-based solutions climate targets that contribute to California’s goals of achieving carbon neutrality and protecting Californians from the climate crisis. This law also requires reporting a summary of the benefits to low-income communities, disadvantaged communities, vulnerable communities, disadvantaged farmers, and Native American tribes.

As part of this new era of tribal-state relations, the Newsom Administration and California Legislature have provided unprecedented funding to advance tribal stewardship, including the:

- Establishment and initial funding of \$100 million for the Tribal Nature-Based Solutions Grant Program to support approximately 39,000 acres of land to be returned to California Native American tribes.
- Establishment and initial funding of \$29 million for the Tribal Wildfire and Forest Resiliency Grant Program and has already supported 15 tribes’ wildfire resilience and forestry management priorities.
- Establishment and initial funding of \$10 million for the Tribal Youth Conservation Corps Grant Program, creating five new programs and providing job training opportunities for tribal youth.
- Passage of the \$10 billion Climate Bond that provides for \$75 million in tribal set asides and the voter mandate of 40% of the bond funding to deliver meaningful and direct benefits to vulnerable populations, disadvantaged communities, and severely disadvantaged communities, including California Native American tribes.
- Many grant programs under the Agency have awarded funding to support tribal stewardship priorities, including ancestral land return. These include, but are not limited to, programs administered by the Wildlife Conservation Board, State Coastal Conservancy, Sierra Nevada Conservancy, and Ocean Protection Council.

Our Agency and its departments must operationalize these directives by utilizing existing laws, regulations, investments, and policy to build durable partnerships with tribes and advance tribal access, collaboration, and ancestral land return across the State.

Tribal Stewardship Policy

In partnership with California Native American tribes, the Agency and its departments, utilizing their existing authorities under California law, will work to expand opportunities for tribal stewardship across the state.

Tribal stewardship is defined by each individual tribe through tribal constitutions, laws, resolution, programming priorities, cultural practices, ceremonies, or other measures. Tribal stewardship can include actions to care for and manage specific areas of land, landscapes or watersheds, plant and animal communities, and natural resources for cultural and ecological objectives. While tribal stewardship may include tribal trust and fee lands, it does not need to be limited and can include other public and private lands across California.

Expanding tribal stewardship includes creating or encouraging the creation of durable tribal access and collaborative agreements and working towards the return of ancestral lands to advance meaningful tribal stewardship of 7.5 million acres of land and coastal waters within the State of California in the coming years.

To accomplish this policy, Agency and its departments will actively pursue partnerships with California Native American tribes, the federal government, local governments, non-profit organizations, conservancies, land trusts, philanthropy, and private landowners. Additionally, the Agency and its departments will work collaboratively with tribes to identify opportunities to advance mutually beneficial priorities and the stewardship goals of partnering tribes. This work involves a range of methods and pathways, detailed below.

Tribal Consultation

Engaging in **early, often, and meaningful tribal consultations** is essential for the Agency and its departments to ensure tribes are collaborative partners in meeting this goal and that tribal priorities are integrated into the work of the Agency and its departments. The Agency Tribal Consultation Policy, adopted in **DATE**, provides additional information on early, often, and meaningful tribal consultation.

The Agency and its departments have a unique government-to-government relationship with federally recognized tribes. In this, the Agency fully acknowledges federally recognized tribes as sovereign nations with self-determination to pursue conservation and economic opportunities and the authority to regulate their members and cultural practices. Coordination between tribal and state jurisdictions and laws is an opportunity to share resources and support mutual goals in the management and care of California lands and waters.

Ancestral Land Return

Ancestral Land Return is return or re-acquisition of property or property rights to a California Native American tribe, including federally recognized tribes, tribally owned non-profit organizations, and tribally owned land trusts, that encompass either:

- Legally binding and enforceable property or other rights recorded on title of a specific parcel of land. This may include easements, covenants, or fee title ownership.
- Legally binding and enforceable property right to water. This may be recorded on title of a specific parcel of land or be committed to through a contract or other legally binding agreement.
- A specific parcel of land held in trust by the federal government for the benefit of a federally recognized tribe or allottee.
- Specific adjudicated water rights held in trust by the federal government for the benefit of a federally recognized tribe or allottee.

Due to varying legal authority and requirements on public funding and the Public Trust Doctrine, some property re-acquisition projects pursued with state funding and authority may require deed restrictions, limitations of uses, or public access on the property. CNRA and its departments will identify opportunities for flexibility and deference to California Native American tribes, while also upholding the requirements placed on state agencies under California law.

Collaboration

Collaboration describes a relationship between a public agency, non-profit organization, or private landowner and one or more California Native American tribe(s) or tribal community(ies) to pursue a mutually beneficial shared priority or goal for the stewardship of a defined area, species, or natural resource. These relationships are built on trust, a desire to pursue shared goals that are mutually beneficial to all parties and rely on inter-personal connections and relationships.

Collaborative Agreements are written agreements entered into between a public agency or other parties and one or more California Native American tribe(s) or tribal community(ies) for a defined area within the tribes' or tribal communities' ancestral territory that sets forth the terms of mutually beneficial collaboration for the stewardship of a specific area, species, or natural resource. Collaborative agreements can take many forms including memoranda of understanding, memoranda of agreements, joint powers agreements, joint powers authorities, legislation, contracts, grants, leases, easements, and other written agreements.

Collaboration also includes, but is not limited to, the following types of relationships:

- **Co-Management** is a specific relationship between a federally recognized tribe and other sovereign governments. As defined by [California Government Code 11019.82 \(b\) \(3\)](#), co-management “means a collaborative effort established through an agreement in which two or more sovereigns mutually negotiate, define, and allocate amongst themselves the sharing of management functions and responsibilities for a given territory, area, or set of natural resources.” Some critical components to meaningful co-management relationships include recognition of federally recognized tribes as sovereign nations, legitimate communication and governance structures for tribes to be fully involved early in management decisions, recognition and incorporation of tribal expertise, accountability between all parties of a co-management relationship, and clear dispute resolution mechanisms.
- **Co-Governance**, as defined by California Government Code 11019.82 (b) (2), is governance that emphasizes collaboration and shared decisionmaking on a government-to-government level. Co-governance occurs between a federally recognized tribe and a public agency.
- **Co-Stewardship**, as defined by the U.S. Department of Interior, broadly refers to collaborative or cooperative arrangements between federal departments, bureaus, and offices and tribes related to shared interests in managing, conserving, and preserving federal lands and waters. It is important to note that a co-stewardship relationship is between the federal government and federally recognized tribes.

Tribal Access

Tribal Access means California Native American tribes and tribal communities can access lands to experience, enjoy, use, and be in relation with their ancestral lands, sacred sites, cultural resources, and culturally important natural resources in a way that is sustainable, safe, welcoming, convenient, affordable, and culturally relevant.

Tribal Access Agreement means an agreement entered into between a public agency or other landowner and one or more California Native American tribe(s) or tribal community(ies) for a defined area within the tribes’ or tribal communities’ ancestral territory. Tribal access agreements may promote and encourage tribal access, provide financial or other beneficial resources, and reduce or remove administrative, permitting, fiscal, logistical, or other barriers tribes face in experiencing, enjoying, using, and being in relation with an area and its resources. Tribal access agreements can take many forms

including memoranda of understanding, memoranda of agreements, legislation, contracts, grants, leases, easements, and other written documents.

Mutual Benefit and Durable

The collaboration, partnerships, and agreements that are established with California Native American tribes pursuant to this policy should be mutually beneficial and durable:

Mutual Benefit means all parties in an agreement or relationship gain value or advancement in individual or shared priorities or goals. For this Policy, mutual benefit may be broadly understood and interpreted to include, but not be limited to, the promotion of tribal sovereignty, implementation of Traditional Ecological Knowledge, Traditional Knowledge, tribal expertise, or steps to address historical wrong(s), and addressing state policy goals and obligations, among other things.

Durable Agreements include:

- Robust dispute resolution clauses with the goal of collaborative problem-solving and preserving commitments made between the parties.
- Statutes, regulations, executive orders, or proclamations that establish and/or authorize commitments between the parties and would take an act of the California Legislature, Congress, regulatory agency, or court to undo through a public process.
- Legally binding and enforceable terms preserving commitments made between the parties.

Tribal Stewardship Policy Toolkit

The Agency will maintain a website that will be regularly updated with entries to provide information and capacity support in the implementation of this Policy. Specifically, entries will be provided explaining specific tools to advance tribal access, collaboration, and ancestral land return. These entries may include recordings of webinars, trainings, roundtables, and other gatherings; templates and examples of written documents; FAQs, website links, and bibliographies; and educational materials to provide resources for the use-specific tools to advance tribal access, collaboration, and ancestral land return.

Limitations of this Policy

This Policy is intended for Agency and its departments. This Policy invites other state agencies, the federal government, non-profit organizations, conservancies, land trust, philanthropy, and private landowners to help advance durable and mutually beneficial

tribal access and collaboration and the return of ancestral lands back to California Native American tribes. This policy is not intended, and should not be construed, to define the legal relationship between Agency and its departments and California Native American tribes or tribal communities. This policy is not a regulation, and it does not create, expand, limit, or waive any laws, legal rights, or legal obligations, nor is it intended to be punitive such that it alters any existing collectively bargained for employment rights or memorandums of understanding between unions and the state.

DRAFT